

CARELLA, BYRNE, CECCHI, OLSTEIN, BRODY & AGNELLO, P.C.
COUNSELLORS AT LAW

CHARLES C. CARELLA
JAN ALAN BRODY
JOHN M. AGNELLO
CHARLES M. CARELLA
JAMES E. CECCHI

DONALD F. MICELI
CARL R. WOODWARD, III
MELISSA E. FLAX
DAVID G. GILFILLAN
G. GLENNON TROUBLEFIELD
BRIAN H. FENLON
LINDSEY H. TAYLOR
CAROLINE F. BARTLETT
ZACHARY S. BOWER+
DONALD A. ECKLUND
CHRISTOPHER H.
WESTRICK*
STEPHEN R. DANEK
MICHAEL A. INNES
MEGAN A. NATALE

**5 BECKER FARM ROAD
ROSELAND, N.J. 07068-1739
PHONE (973) 994-1700
FAX (973) 994-1744
www.carellabyrne.com**

PETER G. STEWART
FRANCIS C. HAND
JAMES A. O'BRIEN, III
JOHN G. ESMERADO
STEVEN G. TYSON
MATTHEW J. CERES
MARC D. MORY
ZACHARY A. JACOBS***
JASON H. ALPERSTEIN++

RAYMOND J. LILLIE
GREGORY G. MAROTTA
KEVIN G. COOPER
MARYSSA P. GEIST
JORDAN M. STEELE**
MICHAEL K. BELOSTOCK
BRIAN F. O'TOOLE**
SEAN M. KILEY
ROBERT J. VASQUEZ

OF COUNSEL

*CERTIFIED BY THE SUPREME COURT OF
NEW JERSEY AS A CIVIL TRIAL
ATTORNEY

**MEMBER NY BAR

***MEMBER IL BAR

+MEMBER FL BAR

++ MEMBER NY & FL BAR

June 20, 2023

VIA ECF

Hon. Tonianne J. Bongiovanni, U.S.M.J.
Clarkson S. Fisher Federal Building
402 East State Street
Trenton, NJ 08608

Re: *Plaintiffs' outline of open issues for June 21, 2023 Status Conference in*

- *In re: Vascepa Antitrust Litigation,*
Nos. 21-12061 (indirect purchasers), 21-12747 (direct purchasers);
- *Dr. Reddy's Laboratories Inc. v. Amarin Pharma, Inc.,*
No. 21-10309;
- *Hikma Pharmaceuticals USA Inc. v. Amarin Pharma, Inc.,*
No. 23-1016.

Dear Judge Bongiovanni:

Since we were last before the Court, there has been significant progress through the meet and confer process suggested by the Court, with only these issues remaining for the June 21, 2023 status conference.

- *Disclosure of search terms utilized by Amarin in its production to the FTC:* Amarin's position is that the materials it produced to the FTC fully satisfy Amarin's discovery obligations in this case (where there is overlap with the FTC's document requests). The plaintiffs disagree because we have no means to test Amarin's assertion without the search terms that Amarin used to collect and produce materials to the FTC. Amarin refuses to disclose its FTC search terms and the parties remain at impasse on this issue.
- *Production of White Papers and presentations Amarin made to the FTC:* Amarin's position remains that any White Papers or presentations provided or presented to the FTC as part of its investigation are "advocacy" materials protected as attorney work product. The plaintiffs disagree because the Third Circuit does not extend such protection to materials

Hon. Tonianne J. Bongiovanni

June 20, 2023

Page 2

or arguments submitted to government agencies. The parties remain at impasse on this issue.

The list above reflects the current issues on which the parties have met and conferred. We note, however, that additional issues may arise in relation to pending discovery requests the parties are still discussing.

Finally, the plaintiffs renew our request for a scheduling order for the case, setting deadlines for discovery, expert work, and briefing of dispositive motions and class certification (where applicable). We provide our proposed schedule, adjusted from that we suggested in January 2023, below.

Event	Plaintiffs' January 2023 Proposal	Plaintiffs' June 2023 Proposal
Discovery opens; any prior discovery deemed served as of this day	January 13, 2023	January 13, 2023
Parties to exchange initial disclosures	January 27, 2023	
Defendants to produce unredacted copies of the API agreements	February 13, 2023	
Parties to file an agreed-to or competing Confidentiality Order(s)	February 28, 2023	
Status conference with Magistrate Judge Bongiovanni		June 21, 2023
Parties to file an agreed-to or competing ESI Protocol(s)	February 28, 2023	July 11, 2023
Parties conclude negotiations over the purchasers' supplemental document requests and Amarin's document requests and bring any remaining disputes to the Court		July 12, 2023

Hon. Tonianne J. Bongiovanni

June 20, 2023

Page 3

Event	Plaintiffs' January 2023 Proposal	Plaintiffs' June 2023 Proposal
Amarin certifies that production of documents responsive to initial discovery requests deemed served on January 13, 2023 is substantially complete; substantial completion shall include significant production of the additional materials Amarin has agreed to produce during the parties' June 2023 negotiations.	March 17, 2023	July 13, 2023
Privilege logs for all documents produced on or before the July 13 substantial completion deadline due.	April 28, 2023	July 27, 2023
Amarin certifies that production of documents responsive to the purchasers' supplemental discovery requests is substantially complete		August 17, 2023
Purchaser plaintiffs and DRL certify that production of documents responsive to Amarin's initial discovery requests is substantially complete		August 17, 2023
Hikma certifies that production of documents responsive to Amarin's initial discovery requests is substantially complete		September 30, 2023
Deadline for parties to meet and confer regarding challenges to privilege log designations (if any).	July 14, 2023	November 15, 2023
Deadline for bringing privilege-related disputes to the Court's attention (e.g., motions concerning privilege log designations) for any documents produced by September 18.	[July] 23, 2023	November 21, 2023
Deadline for bringing disputes relating to written discovery to the Court's attention.	August 11, 2023	December 20, 2023
Deadline to amend pleadings or to add parties, claims, or defenses, except upon a showing of good cause	August 31, 2023	January 16, 2024

Hon. Tonianne J. Bongiovanni

June 20, 2023

Page 4

Event	Plaintiffs' January 2023 Proposal	Plaintiffs' June 2023 Proposal
<i>IPPs and DPPs to serve class certification motions and class certification expert declarations pursuant to former Appendix N</i>	<i>June 29, 2023</i>	<i>January 16, 2024</i>
Fact discovery closes. All discovery requests must be served to be answerable by this date, except for requests for admissions, which may be served up to 45 days before Rule 56 and Daubert motions are filed.	August 31, 2023	January 16, 2024
<i>Defendants to serve oppositions to IPP and DPP motions for class certification and expert declarations</i>	<i>August 3, 2023</i>	<i>February 15, 2024</i>
Plaintiffs serve merits expert reports	October 6, 2023	February 27, 2024
<i>IPPs and DPPs to serve replies in support of class certification and any reply expert declarations</i>	<i>September 7, 2023</i>	<i>March 14, 2024</i>
<i>File all class certification papers</i>	<i>September 8, 2023</i>	<i>March 15, 2024</i>
Defendants serve opposing merits expert reports	November 9, 2023	March 26, 2024
Plaintiffs serve reply merits expert reports, if any	December 8, 2023	April 18, 2024
<i>Deadline to depose class experts</i>	<i>November 30, 2023</i>	<i>April 18, 2024</i>
<i>Class certification hearing</i>	<i>As set by the Court</i>	<i>As set by the Court</i>
Deadline to depose merits experts	February 16, 2024	May 16, 2024
Parties file Rule 56 motions	March 8, 2024	June 6, 2024
Parties file Rule 56 oppositions, <i>Daubert</i> motions to challenge moving party's experts	May 10, 2024	July 18, 2024
Parties file Rule 56 reply briefs, respond to <i>Daubert</i> motions	May 31, 2024	August 8, 2024
Parties file <i>Daubert</i> reply briefs	June 14, 2024	August 22, 2024

Hon. Tonianne J. Bongiovanni

June 20, 2023

Page 5

Event	Plaintiffs' January 2023 Proposal	Plaintiffs' June 2023 Proposal
Hearing on Rule 56 and <i>Daubert</i> motions	As set by the Court	As set by the Court
Pretrial conference	As set by the Court	As set by the Court
Trial	As set by the Court	As set by the Court

Sincerely,

/s/ James E. Cecchi

James E. Cecchi

/s/ Lauren G. Barnes

Lauren G. Barnes

*Interim Co-Lead Counsel for Indirect
Purchaser Plaintiffs*

Cc: Counsel of record in the above-captioned cases